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Food
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des
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Unies
pour
l'alimentation
et
l'agriculture

Organización
de las
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Unidas
para la
Agricultura
y la
Alimentación

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Item 13 of the Draft Provisional Agenda

INTERNATIONAL TREATY ON PLANT GENETIC RESOURCES FOR FOOD AND AGRICULTURE

SECOND SESSION OF THE GOVERNING BODY

Rome, Italy, 29 October-2 November 2007

COMPILATION AND ANALYSIS OF SUBMISSIONS BY CONTRACTING PARTIES AND OTHER RELEVANT ORGANIZATIONS CONCERNING THE IMPLEMENTATION OF ARTICLE 6

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Annex 1: Compilation of submissions by Contracting Parties and other relevant organizations concerning the implementation of Article 6.

I. INTRODUCTION

1. At its First Session, the Governing Body recognized the importance of Article 6 of the Treaty (*Sustainable Use of Plant Genetic Resources*) and stressed that the Contracting Parties will assume the major role in enhancing the sustainable use of plant genetic resources for food and agriculture (PGRFA). It noted that the Treaty's main contribution would be to develop and facilitate partnerships and cooperation for such country-driven implementation. Options for the implementation of Article 6 include capacity-building, awareness-raising and education, cooperation with other institutions, and integration with other initiatives. The Governing Body decided that the implementation of Article 6 should be a component of its programme of work, and a standing item on its agenda as a priority and therefore, decided to engage in an in-depth consideration of the sustainable use of PGRFA following a staged approach beginning in this session.
2. The Governing Body invited Contracting Parties, other governments, and relevant institutions and organisations to submit to the Secretary information on policy and legal measures relevant to Article 6.1 of the Treaty, as well as other relevant information, for example on workshops or studies. The Governing Body decided that the compilation of such information, together with information on relevant measures undertaken in the Convention on Biological Diversity (CBD) and by the International Agricultural Research Centres (IARCs), as well as other relevant institutions, should serve as a basis to assess progress in implementing Article 6, at a future session of the Governing Body.
3. The Governing Body emphasized the need to avoid duplication of efforts, especially in light of the implementation of the *Global Plan of Action for the Conservation and Sustainable Utilization of Plant Genetic Resources for Food and Agriculture*, and preparations by the Commission on Genetic Resources for Food and Agriculture for the second *Report on the State of the World's Plant Genetic Resources for Food and Agriculture*.
4. The Governing Body further invited Contracting Parties, other governments, and relevant institutions and organizations to support the further examination and elaboration of the issues, and undertake other practical measures that could contribute to the implementation of Article 6 and related provisions, including through capacity-building and organising or hosting consultations, workshops and related studies.
5. The Interim Secretariat of the Treaty accordingly invited the Contracting Parties in November 2006 to provide the information requested on "policy and legal measures relevant to Article 6.1¹ as well as other relevant information, for example on workshops or studies". A further message was sent to the FAO representatives in all regions to assist with the follow-up on this matter. The Bureau of the Governing Body at its third meeting recommended that a document compiling the submissions on the implementation of Article 6.1. be prepared for the consideration by the Governing Body at its Second Session.
6. As of 1 August 2007, the Secretary had received submissions from Australia, Ecuador, Egypt, El Salvador, Germany, Lesotho, Madagascar, Niger, Pakistan, Seychelles, Syria, Sweden, Tanzania and Uruguay. A compilation of submissions is contained in *Annex 1* to this document. This document responds to that recommendation and briefly analyses the submissions and outlines some of the issues that these submissions contain.

¹ Article 6.1 states "*The Contracting Parties shall develop and maintain appropriate policy and legal measures that promote the sustainable use of plant genetic resources for food and agriculture*".

II. SUMMARY OF SUBMISSIONS RECEIVED

7. The submissions illustrate that there are often numerous and interrelating laws and policies relevant to promoting the sustainable use of PGRFA. These include, among others, general laws and policies relating to the environment, biodiversity, and agriculture development. Often a number of government departments and agencies have a role in promoting sustainable use.

8. Parties have identified a range of activities within government, academic and scientific institutions that promote sustainable use. These activities are targeted at different stakeholders, including government, farmers, students and businesses. Several measures have been indicated to being undertaken by Parties to promote Article 6 implementation including policy assistance, , technical and institutional capacity building, enhancing scientific research skills, development of baseline data, and promotion of incentives for all stakeholders to conserve and sustainably use PGRFA. Parties also refer to the ongoing work undertaken in preparation of the Country Report for the implementation of the *Global Plan of Action*. All the submissions received are presented in original language in *Annex 1*.

III. ADDITIONAL SOURCES OF INFORMATION ABOUT ARTICLE 6.1

9. The Governing Body, at its First Session, recognised the importance of relevant measures undertaken by the Convention on Biological Diversity (CBD), by the International Agricultural Research Centers (IARCs), as well as by other relevant institutions, and considered that they should serve as a basis to assess progress in implementing Article 6, at a future session of the Governing Body.

10. Comprehensive information has been received from FAO and from Bioversity International² on behalf of the IARCs, through the document IT/GB-2/07/Inf.8 on their activities on the sustainable use of plant genetic resources for food and agriculture. Overall, there is a growing interest among all stakeholders for maximizing utilization of plant genetic resources for food and agriculture for agricultural growth. Capacity building is considered as an integral component towards this goal. FAO had provided a document on the topic to the Third Session of the Inter-governmental Working Group on Plant Genetic Resources in 2005.³

11. Among other organizations, the Secretariat of the Convention on Biological Diversity has compiled information about legislative measures taken by countries with reference to the Treaty when regulating access to genetic resources and benefit-sharing. Measures taken by Contracting Parties to the CBD are reported through the National Reporting Process. The most recent round of national reports – the Third National Report – requested information on policies or legal measures which ensure that relevant transfers of genetic resources are in line with the International Treaty on Plant Genetic Resources for Food and Agriculture.

12. Question 113 of the Third National Reports reads as follows: "In developing national measures to address access to genetic resources and benefit-sharing, has your country taken into account the multilateral system of access and benefit-sharing set out in the International Treaty on Plant Genetic Resources for Food and Agriculture?" Out of 121 Third National Reports submitted by Contracting Parties of the CBD, 65 Parties responded negatively to this question, 53 responded in the affirmative and 3 Contracting Parties did not provide any response to this question.

² IT/GB-2/07/Inf.8.

³ CGRFA/WG-PGR-3/05/4 FAO's Initiatives for Capacity Building to Support the Utilization of Plant Genetic Resources for Food and Agriculture through Seed Systems and Plant Breeding and Genetic Enhancement

13. Additional information related to the implementation of Article 6.1 has also been received from the relevant departments of FAO and Bioversity International. This information is available in document IT/GB-2/07/Inf.8.

IV. CONCLUSIONS

14. The submissions and additional sources of information about measures taken by Contracting Parties with regards the objectives mentioned in Article 6 and in particular 6.1, demonstrate that countries have begun the process of reviewing their existing policies and laws to determine whether they require amending in light of their obligations pursuant to Article 6.1 and other provisions of the Treaty. However, given the limited amount of information currently available, continued information gathering may be required in the future regarding the implementation of Article 6.

15. The Governing Body is invited to consider the submissions by Contracting Parties and other relevant organizations on this Article and provide further guidance on a staged approach to its implementation.

***ANNEX I: COMPILATION OF SUBMISSIONS BY CONTRACTING PARTIES AND
OTHER RELEVANT ORGANIZATIONS CONCERNING THE IMPLEMENTATION OF
ARTICLE 6***

INTRODUCTION

This annex is a compilation of the submissions by Contracting Parties and other relevant organizations concerning the implementation of Article 6 of the International Treaty on Plant Genetic Resources for Food and Agriculture.

All submissions contained in this annex were received by the Secretariat of the Treaty before 1 August 2007.

The majority of the submissions have been inserted into this annex in the form and language in which they were received. Minor editorial changes include the full rendering of acronyms and the correction of spelling. In those cases where more substantial changes have been made, footnotes have been inserted to provide details.

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I. AUSTRALIA

In relation to the ways in which Contracting Parties like Australia might facilitate the provision of adequate resources for the implementation of the Treaty in developing country Contracting Parties, and information on the plans and programmes of Contracting Parties for building capacity in plant genetic resources and their conservation and sustainable use for food and agriculture, Australia advises as follows.

We are proposing to hold, in collaboration with the Secretariat of the Pacific Communities, a second plant genetic resources workshop for Pacific Island states and territories and Papua New Guinea, in mid-2007. This will build on the first workshop held in Fiji in May 2006. The second workshop will address, *inter alia*,

- discussion of issues relating to assisting non-parties to prepare for signing the Treaty, including the distribution of communications resources prepared by the Secretariat of the Pacific Communities and funded by Australia;
- explanation of issues associated with the implementation of the Treaty, including the responsibilities of Contracting Parties and the benefits of being a Party;
- potential sources of funding for implementation of the Treaty and suggested means to approach those sources;
- collaborative actions that may assist in better positioning Parties and potential Parties to implement and benefit from the Treaty and to build capacity in plant genetic resources for food and agriculture and their conservation and sustainable use.

II. ECUADOR

En el Ecuador mediante el Grupo Nacional de Trabajo en Biodiversidad, se ha generado un documento sobre Política y Estrategia Nacional de Biodiversidad (ENB) del 2001 al 2010. Dentro de sus líneas estratégicas se menciona en el resultado 2 de forma textual lo siguiente: “Resultado 2. Se usan sustentablemente los recursos agrícolas y pecuarios del país. La ENB se propone trabajar en los siguientes ámbitos:

1. La diversificación de la base de producción de alimentos y estimulación de la oferta y demanda local de especies y variedades nativas a través de:
 - a) Incentivar la producción, el cultivo y el procesamiento de especies y variedades nativas mediante el desarrollo de sistemas integrales y diversificados, bajo el enfoque de cadenas agroalimentarias.
 - b) Potenciar la investigación aplicada y aprovechar el conocimiento tradicional para desarrollar técnicas de cultivo y procesamiento para el sector productivo, a partir del respeto de los derechos de propiedad intelectual de los pueblos indígenas y afroecuatorianos y comunidades locales.
 - c) Promover mecanismos de mejoramiento genético no convencional, como el mejoramiento por resistencia horizontal.
 - d) Potenciar que las escuelas agropecuarias y los centros de educación superior incorporen en sus programas de enseñanza, elementos que potencien los conocimientos tradicionales, el cultivo de especies y variedades locales, y la biotecnología agropecuaria.
 - e) Incentivar la demanda y el uso de especies y de variedades nativas con programas educativos que fomenten su consumo sustentable y contribuyan a la seguridad alimentaria (por ejemplo, en el programa de desayuno escolar).

2. La promoción de las exportaciones de productos de la agrobiodiversidad nativa (en su mayoría no tradicionales y nuevos), mediante el estudio de los mercados internacionales; el desarrollo de estrategias de penetración promoción en los mercados más promisorios, con garantías de calidad y volumen; y el incentivo a la exportación de estos productos.
3. El impulso a la adopción de prácticas, tecnologías y proceso de producción limpia en las actividades actuales, el desarrollo progresivo de la agroecología, la recuperación de suelos y el buen uso de los recursos, especialmente del agua. La progresiva sustitución de los químicos con énfasis en el control biológico.
4. El desarrollo de mecanismos para garantizar la eficiencia y sostenibilidad de los bancos de germoplasma de la agrobiodiversidad; asegurar su recuperación ante eventos catastróficos; evaluar su funcionamiento y sostenibilidad; propiciar la inversión privada, con fines de asociación de los bancos genéticos”.

Lo mencionado en la Estrategia Nacional de Biodiversidad (ENB), lo aprobado en la primera reunión del Órgano Rector, en el documento IT/GB-1/06/10 y lo que dice el Tratado Internacional sobre los Recursos Fitogenéticos para la Alimentación y la Agricultura en el Artículo 6 sobre la utilización sostenible de los Recursos Fitogenéticos para la Alimentación y la Agricultura (RFAA), tienen los mismos objetivos y metas. El Ecuador asegura políticamente la utilización sostenible de los RFAA, mediante el Decreto Ejecutivo del Dr Alfredo Palacios, que establece:

Art. 1.- Establézcase como Política de Estrado, la Política y Estrategia Nacional de Biodiversidad de la República del Ecuador.

Art. 2.- El Ministerio del Ambiente, en su calidad de Autoridad Nacional Ambiental, difundirá el contenido de la Estrategia Nacional de Biodiversidad de la República del Ecuador.

III. EGYPT

- The Second Country Report was prepared and delivered to FAO.
- The report is available on the web site of Egypt’s National Gene Bank.

IV. EL SALVADOR

El Centro Nacional de Tecnología Agropecuaria y Forestal (CENTA) forma parte de la Red Mesoamericana de Recursos Fitogenéticos (la red de REMERFI), con la cual hemos organizado talleres a nivel nacional sobre conservación *ex situ* y ha financiado eventos de participación de técnicos a reuniones de la red. Al mismo tiempo ha financiado talleres de capacitación sobre conservación y utilización de los recursos fitogenéticos a nivel centroamericano y además, la elaboración de publicaciones. Estas actividades están enmarcadas en las tres áreas de cultivo de tejidos, banco de germoplasma de semillas y colecciones de campo, de los cuales se tienen las siguientes proyecciones de trabajo para este año:

Promoción de la conservación *in situ* de las especies silvestres afines de las cultivadas silvestres para la producción de alimentos

¿Qué hacer?

En primer lugar se debe de concienciar a los pequeños agricultores sobre la importancia de la conservación y utilización de los recursos fitogenéticos, por medio de capacitaciones, incentivos y otros, con el fin de formar líderes comunales con habilidades y destrezas para dirigir acciones

integradas por un manejo sostenible de los recursos fitogenéticos para la alimentación y la agricultura.

También se deben abordar estudios biológicos (principalmente aspectos relativos a la propagación y conservación), se deben realizar estudios en laboratorio, invernadero y campo para poder cuantificar su valor nutricional para su consumo, su adaptación y adaptabilidad a condiciones ecológicas limitantes, así como estudios para su forma de uso actual y potenciales a nivel doméstico como industrial, para con ello verificar sus atributos sobresalientes para su introducción y posible domesticación del cultivo fomentando su valor y uso por medio de actividades de promoción e información para poder ser utilizados.

Además de lo anteriormente descrito, se necesita crear y poner en marcha una legislación que cuente con una formulación de políticas y estrategias nacionales que involucren una coordinación de actividades en donde participen todos los sectores (ONG, organismos, universidades, y otras) involucradas en el manejo, conservación y utilización de los recursos fitogenéticos.

¿Cómo hacerlo?

1. En primer lugar instalando bancos de germoplasma de especies silvestres y/o cultivos autóctonos.
2. Actualización de técnicas para la investigación en las áreas de mejoramiento genético, biotecnología y métodos moleculares que permitan caracterizar el germoplasma con fines utilitarios.
3. Conformar un sistema que logre la participación de los diversos organismos, ONG, agricultores y comunidades, universidades, sectores privados y usuarios en general a unir esfuerzos para canalizar los recursos hacia un desarrollo justo, equitativo y sostenible.
4. Contar con el apoyo gubernamental.

Restricciones

1. La mayoría de los fitomejoradores no muestran interés en usar especies silvestres afines a las plantas cultivadas por su bajo rendimiento y otros caracteres no deseables. Es por ello necesario efectuar estudios de mejoramiento hacia la identificación de caracteres o propiedades útiles en materiales silvestres y cultivares tradicionales o primitivos, despertando así el interés del fitomejorador hacia otras facetas de los cultivos, acciones:
 - a) Refrescamiento de germoplasma para uso de los Programas de mejoramiento.
 - b) Uso de métodos biotecnológicos (iso enzimas, RFLP), para la caracterización de germoplasma.
 - c) Coordinar conjuntamente con otras instituciones la elaboración de proyectos de protección de germoplasma, frente a los avances de la biotecnología, en cuanto afecte a al conservación y uso de los recursos fitogenéticos del país.
2. Falta de personal técnico, auxiliares y personal de campo.
3. Presupuesto.

V. GERMANY

The European Union plans to submit a Community contribution on this issue which will be supplemented by Member States as appropriate with regard to more specific national measures and activities.

VI. LESOTHO

Other than the lack of implementation of the few and old existing laws, a study recently undertaken on Access and Benefit Sharing indicates that there are various perspectives that justify a legal and policy review to accommodate concerns related to plant genetic resources conservation and sustainable use.

VII. MADAGASCAR

Un projet de décret issu de la combinaison de 2 projets de lois:

- Loi cadre sur l'accès aux Ressources Biologiques Malgaches et aux savoirs qui leur sont attachés, proposée par le Ministère de l'Environnement des Eaux et Forêts. (projet de loi CDB/MINENVEF)
- l'avant projet de Loi sur les Ressources Phytogénétiques proposé par le Ministère de l'Agriculture de l'Elevage et de la Pêche (à l'issue de l'atelier du 31 Août 2005)

a été élaboré par un comité conjoint de techniciens et juristes des 3 ministères concernés: le Ministère de l'Agriculture de l'Elevage et de la Pêche, le Ministère de l'Environnement, des Eaux et Forêts et le Ministère de l'Education Nationale et de la Recherche Scientifique. Ce projet de décret est soumis pour observations aux parties prenantes en vue d'une mise en cohérence de contenu. Une consultation s'impose actuellement pour la finalisation.

Programme d'activités pluriannuel visant à englober tous les éléments des ressources phylogénétiques pour l'alimentation et l'agriculture⁴

Activités	Echéance	Observations : Travaux réalisés, questions à aborder, actions à entreprendre
Législations et réglementations nationales		
1. Elaborer des textes pour la mise en oeuvre du TIRPGAA conformément à la Convention sur la Diversité Biologique (CDB) et en cohérence avec les textes juridiques en vigueur à Madagascar.	2010	02 avant projets de loi ont été déjà élaborés : Loi cadre sur l'accès aux ressources biologiques malgaches et aux savoirs qui leur sont attachés en 2000 et l'Avant projet de Loi sur les RPGAA en septembre 2005. Les actions à entreprendre consistent à 1. Mettre à jour les deux textes déjà élaborés suivant le contexte politique national et les mettre en cohérence 2. Finaliser l'unique texte (01 Loi Cadre) englobant toutes les Ressources biologiques de Madagascar 3. Elaborer par la suite en ce qui les concerne des textes d'application
1. Actualiser/Elaborer et vulgariser les textes relatifs à l'agrobiodiversité	2009	
2. Mettre en oeuvre la loi sur les ressources semencières		
3. Elaborer et adopter une loi nationale sur le droit des communautés locales des agriculteurs et des selectionneurs	2010	
4. Adopter le projet de texte sur la biosécurité	En cours	

⁴ En février 2007, le Point Focal National sur les Ressources Phylogénétiques pour l'Alimentation et l'Agriculture a soumis au Secrétariat de la Commission des ressources génétiques pour l'alimentation et l'agriculture, le Programme d'activités pluriannuel de Madagascar qui vise à englober tous les éléments des ressources phylogénétiques pour l'alimentation et l'agriculture. Ce programme a été incorporé dans cet annexe pour refléter les activités en cours et planifiées dans le cadre de l'application de l'Article 6.1 du Traité.

Activités	Echéance	Observations : Travaux réalisés, questions à aborder, actions à entreprendre
5. Mettre en oeuvre la Convention nationale portant sur l'accès et échange d'informations relatives aux ressources phytogénétiques et aux plantes sauvages apparentées (CWR)	2009	Le modèle de convention sur l'accès et le partage d'information a été élaboré et initiée dans le cadre du projet UNEP/GEF/CWR : « Conservation in situ des parents sauvages des plantes cultivées grâce à une meilleure gestion de l'information et a des application sur le terrain »
Stratégies, Plans et Programmes		
6. Mettre en place un « Comité national de coordination » pour la gestion des Ressources Phytogénétiques (RPG)	2007	Les RPG englobent les RPGAA, les Parents Sauvages des Plantes Cultivées (PSPC ou PSA), les RPG forestières ayant trait à l'alimentation et à l'agriculture
7. Mettre en cohérence la mise en œuvre des différents plans stratégiques actuellement existants à travers le comité national de coordination	2009	Les existants sont : - Stratégie Nationale de Gestion Durable de la Biodiversité (SNGDB) - Plan National stratégique pour la gestion des RPG Forestières (révisé en 2005) - Draft du plan stratégique pour la conservation et l'utilisation durable de l'agrobiodiversité (2006) - Le développement du cadre légal pour l'accès aux informations et le partage de données en tant que partie intégrante de la mise en œuvre de la stratégie pour la conservation et l'utilisation durables des plantes est en cours
8. Elaboration du Plan Stratégique National pour la conservation et l'utilisation durable des RPG	2010-2012	Avec prise en considération des existants mentionnés ci-dessus.
9. Intégrer aux politiques et programmes agricoles existants des considérations sur la protection et la mise en valeur des RPG	A partir de 2008	
10. Elaboration de programme d'action national des RPGAA à soumettre au plan d'action mondial	2010	
Renforcement des capacités		
Considérer en priorité les besoins de renforcement des capacités locales, dans l'élaboration et la mise en œuvre du plan Stratégique National pour la conservation et l'utilisation durable des RPG	2009	
Le renforcement des capacités nationales nécessaires à l'exécution des obligations découlant du Traité	2008	

Activités	Echéance	Observations : Travaux réalisés, questions à aborder, actions à entreprendre
Renforcer les sélectionneurs de semences		
IEC		
Sensibiliser le public sur l'importance de la RPG et la nécessité de sa conservation		
Promouvoir la participation large du public à toutes les initiatives de protection et de valorisation des RPG		
Organiser des échanges -expertise en matière en matière de conservation et développement des RPG		
Conservation in situ		
Promouvoir la conservation in situ par une approche écosystème		<ul style="list-style-type: none"> - Recenser les espèces et variétés locales des plantes cultivées et des espèces de PSCP menacées d'extinction - Identifier les menaces sur ces espèces et variétés - Prospector les zones à forte concentration d'espèces et variétés locales - Caractériser les performances génétiques des variétés locales - Collecter et conserver les semences et des espèces, les variétés locales et variétés améliorées développées à Madagascar - Renforcer le programme de multiplication des espèces, écotypes locaux menacés d'extinction
Elaborer un programme participatif de conservation in situ des espèces et écotypes menacés de disparition.		
Appuyer le développement d'entreprises semencières privées et de groupements de paysans semenciers	2007-2012	Activités prioritaires inscrites dans Madagascar Action Plan (2007-2012) Engagement 4 : Développement Rural Défi 3 : Lancer une révolution verte durable
Entreprendre des Recherches et améliorations variétales		
Assurer l'encadrement technique		
Procéder à l'ouverture par adhésion aux conventions internationales et importation de semences		
Conservation ex situ		
Elaborer un programme d'appui à la conservation des variétés cultivées		
Conserver la variabilité des écotypes locaux		

Activités	Echéance	Observations : Travaux réalisés, questions à aborder, actions à entreprendre
Valorisation et utilisation		
Capitaliser les savoirs et savoirs faire traditionnels en matière des RPG		
Mettre en place un cadre de recherche et de prévention des risques liés à la biotechnologie		
Valoriser les ressources agrobiologiques		
Développer une stratégie régionale de promotion commerciale des produits agricoles locaux		
Améliorer la disponibilité des ressources génétiques et des technologies		
Renforcer les réseaux thématiques de recherche sur les ressources		
Promouvoir la protection et l'utilisation durable des ressources génétiques ayant un intérêt réel ou potentiel pour l'alimentation et l'agriculture		Deux organismes détiennent plus de 95% de la collection nationale formelle de RPGAA : FOFIFA (Centre National de Recherche Appliquée au Développement Rural), et FIFAMANOR (Coopération Madagascar-Norvège pour le Développement de l'Élevage et de l'Agriculture).

VIII. NIGER

Il n'y a aucune disposition légale nationale spécifique à l'application de l'article 6.1 mais des tentatives sont en cours notamment pour l'élaboration des projets de loi sur les ressources phylogénétiques. Cependant il y a quelques lois ou décrets présidentiels relatifs au secteur semencier.

IX. PAKISTAN

The proceedings of workshops and studies are available with the resources persons. The country report and National Information Sharing Mechanism on Plant Genetic Resources for Food and Agriculture (PGRFA) is being developed in collaboration with FAO. All the information will be available on the website of Pakistan's Agricultural Research Council (PARC) by April 2007.

The Government of Pakistan has taken the following measures to promote the sustainable use of plant genetic resources for food and agriculture:

- a. A national program on conservation and sustainable use of Plant Genetic Resources has been established at the National Agricultural Research Centre, Islamabad.

- b. A draft on legislation for “Access to Genetic Resources for Food and Agriculture” has been prepared and is under consideration of the Ministry of Food, Agriculture & Livestock and the Ministry of Environment. The appropriate legal measures have been incorporated on access and sustainable use of Plant Genetic resources and benefit sharing.
- c. Our policy is to exchange germplasm of Annexure-I crops with minimum restrictions but subject to the signing of the “Material Transfer Agreement” by the recipient. Approximately 4000 accessions of germplasm are distributed annually within and outside the country.

X. SEYCHELLES⁵

ACCESS TO GENETIC RESOURCES AND BENEFIT SHARING BILL (2005)

A BILL OF

AN ACT to provide for the regulation of access to, and the utilisation of, genetic resources and benefit sharing and connected matters.

ENACTED by the President and the National Assembly.

PART I – PRELIMINARY

1. This Act may be cited as the Access to Genetic Resources and Benefit Sharing Act, 2005.
2. In this Act unless the context otherwise requires –

“Access” means obtaining genetic resources in accordance with the provisions of this Act pursuant to the recognised international commitments of the Republic of Seychelles;

“Applicant” means a person or organisation requesting access to, or rights to the utilisation of, genetic resources under this Act;

"Biological resources" includes organisms or parts thereof, populations, or any other biotic component of ecosystems with actual or potential use or value for humanity;

“Complete application” means a request for access to, or rights to the utilisation of, genetic resources fulfilling the requirements established by this Act;

“Competent Authority” means the Authority designated pursuant to section 9 of this Act;

“Conventional uses” means widely practiced and accepted uses such as –

- (a) The local collection of wild genetic resources for cultivation in home or kitchen gardens and intended primarily for domestic use,
- (b) the sale or exchange of agricultural produce for food or feed purposes,
- (c) traditional fermentation techniques,

⁵Note by the Secretariat: In response to the Governing Body’s invitation for information relevant to Article 6, the Seychelles submitted a draft Bill of an Act to provide for the regulation of access to genetic resources and benefit sharing. One of the Act’s main objectives is to promote the conservation and sustainable use of genetic resources, including plant genetic resources for food and agriculture, of the Seychelles. The text of the draft Bill is reproduced in the form in which it was received.

- (d) the saving, using, exchanging or selling of farm-saved seed or propagating material among farmers, or
- (e) any other use the Minister may prescribe in regulations;

“Coordinating Agency” means the Agency designated pursuant to section 11 of this Act;

“Genetic resources” means biological resources, including parts and components, with the exception of:

- (a) any biological resource for which the intended purpose does not involve cultivation or reproduction by means of any natural or artificial technique, including biological resources for conventional uses, and
- (b) any other biological resource or use of such resource the Minister may prescribe in regulations;

or

“Genetic resources” means biological resources, including parts and components, with the exception of:

- (a) any biological resource for which the intended purpose does not involve any form of research or cultivation or reproduction by means of any natural or artificial technique, including biological resources for conventional uses, and
- (b) any other biological resource or use of such resource the Minister may prescribe in regulations;

“Lead agencies” means those agencies identified by the Competent Authority pursuant to section 13 of this Act;

“Minister” means, except as may be otherwise stated, the Minister for the time being responsible for matters relating to the environment;

“Parts and components” includes functional units of heredity, DNA sequences, chemical compounds, secondary metabolites, biochemicals and other similar material and transcriptions of information describing any of the above in terms of structure or similar technical details;

“Plant genetic resources for food and agriculture” means those genetic resources that may be prescribed as such in regulations by the Minister for the time being responsible for agriculture;

“Provisional application” means an incomplete request for access to, or rights to the utilisation of, genetic resources; and,

“Utilisation” means the use of genetic resources for commercial purposes, whether or not for consideration.

3. This Act relates to access to, and the utilisation of, the genetic resources of Seychelles and the fair and equitable sharing of the benefits of such utilisation.

4. The objectives of this Act are as follows –

- i. Promoting the conservation and sustainable use of the genetic resources of Seychelles;
- ii. Providing for facilitated access to, and utilisation of, the genetic resources of Seychelles;
- iii. Limiting or eliminating access to, and utilisation of, the genetic resources of Seychelles other than in accordance with this Act; and,
- iv. Ensuring fair and equitable sharing of the benefits resulting from facilitated access to, and utilisation of, the genetic resources of Seychelles.

**PART II – OWNERSHIP OF AND RIGHT TO DETERMINE, CONTROL AND REGULATE
ACCESS TO AND UTILISATION OF GENETIC RESOURCES**

5. Pursuant to Article 26.1 of the Constitution of the Republic of Seychelles, ownership of genetic resources is recognised as vested in the registered proprietor of the land, the lessee of the land, the agent or trustee of the land or their agent, transferee or assignee, on, below or above which such genetic resources are found.
6. Pursuant to Article 26.2(a) of the Constitution of the Republic of Seychelles, the right to determine, control and regulate access to genetic resources found in the Republic of Seychelles is vested in the Government for the benefit of the public interest and shall be exercised in accordance with the provisions of this Act.
7. Access to the genetic resources of Seychelles shall only be in accordance with this Act. Access to the genetic resources of Seychelles other than in accordance with this Act shall be an offence.
8. Utilisation of the genetic resources of Seychelles shall only be in accordance with this Act. Utilisation of the genetic resources of Seychelles other than in accordance with this Act shall be an offence.

PART III – ADMINISTRATION

9. The Competent Authority shall be designated by the Minister as he may prescribe in regulations.
10. The functions of the Competent Authority shall be –
- (a) as may, from time to time, be necessary to coordinate the development of policies and guidelines relating to the effective implementation of the objectives of this Act;
 - (b) to co-ordinate all policy and substantive activities relating to access to, and utilisation of, genetic resources in accordance with this Act;
 - (c) to promote harmony and consistency in the implementation of this Act by lead agencies;
 - (d) to collaborate with the Coordinating Agency in the effective implementation of its functions under this Act;
 - (e) to collaborate with lead agencies in, and be responsible for, the management and regulation of the utilisation of genetic resources under this Act;
 - (f) to monitor, in collaboration with the Coordinating Agency and other Lead Agencies, the application and use of genetic resources transferred from Seychelles and deposited outside Seychelles;
 - (g) in collaboration with lead agencies, to ensure that the people of Seychelles benefit from the genetic resources accessed;
 - (h) to collaborate with lead agencies in carrying out public awareness campaigns and designing capacity building programmes;
 - (i) as may be appropriate, to implement, in collaboration with the Coordinating Agency, lead agencies, non-governmental organisations and other interested parties, an integrated training programme for promoting the implementation of this Act;
 - (j) to collaborate with lead agencies in ensuring compliance with, and enforcement of, this Act; and,
 - (k) any other functions the Minister may prescribe in regulations.
11. The Coordinating Agency shall be designated by the Minister as he may prescribe in regulations.
12. The functions of the Coordinating Agency shall be –

- (a) to receive and facilitate the expeditious processing of all applications for access to, or utilisation of, genetic resources submitted to it;
 - (b) Upon receiving written authorisation from the relevant lead agencies, grant permits for access and utilisation of the genetic resources Seychelles;
 - (c) to co-ordinate all administrative activities relating to access to, and utilisation of, genetic resources in accordance with this Act;
 - (d) to establish and maintain a depository for all applications, permits, material transfer agreements, reports and other relevant documentation, including communications and notifications;
 - (e) to establish administrative mechanisms for the implementation of this Act;
 - (f) to ensure that that digital specimens of genetic resources accessed or utilised under this Act are deposited in Seychelles, such digital specimens to be provided in appropriate electronic format and to include –
 - (i) an image of the genetic resource or the specimen from which it was derived or extracted,
 - (ii) any available accompanying taxonomic or passport data,
 - (iii) any other information the Minister may prescribe in regulations of the Competent Authority or lead agencies require on a case-by-case basis.
 - (g) as appropriate and in collaboration with lead agencies, to ensure that representative samples and specimens of genetic resources accessed or utilised under this Act are deposited in Seychelles;
 - (h) as appropriate and in collaboration with lead agencies, to advise on and approve the location for depositing of samples and specimens of genetic resources accessed or utilised under this Act;
 - (i) as appropriate and in collaborations with lead agencies, to ensure that samples and specimens accessed or utilised and held outside of the jurisdiction of Seychelles remain reasonably available to Seychelles upon request;
 - (j) to monitor technology transfer and information exchange in relation to genetic resources;
 - (k) in collaboration with lead agencies, to facilitate negotiation and conclusion of all material transfer agreements, including the terms and conditions upon which access or authority for utilisation is to be granted;
 - (l) to ensure that all material transfer agreements or permits contain sufficient provisions for the sharing of benefits accruing to any person or entity from access to, or utilisation of, the genetic resources of Seychelles;
 - (m) to submit to the Competent Authority reports relating to the implementation of this Act;
- and,
- (n) any other functions the Minister may prescribe in regulations.

13. Lead agencies shall be identified or designated by the Competent Authority as necessary and appropriate.

14. (1) Lead Agencies shall be responsible for the management and regulation of access to genetic resources under this Act.
- (2) The Coordinating Agency shall forward to the relevant Lead Agency an application for access to genetic resources submitted to it by an applicant.
- (3) The functions of a Lead Agency in respect of an application for access to genetic resources submitted to it under section 14.2 shall be –
- (a) to review the application and provide authorisation to the Coordinating Agency, in writing, consenting to the grant of access or rights of utilisation or otherwise;
 - (b) to maintain a depository of all documentation of relevance to access and utilisation of genetic resources within their respective responsibilities or mandates and to ensure that duplicates of such documentation are provided to the Coordinating Agency in a timely manner;

- (c) to ensure that a member of staff of an appropriate lead agency accompanies all applicants granted access to genetic resources under this Act in activities relating to the collection of such resources;
 - (d) As appropriate and in collaboration with the Competent Authority, ensure the effective enforcement of this Act;
 - (e) to ensure that the rights of the local communities which use, collect or research into genetic resources are protected, including verifying compliance with consent requirements;
 - (f) as appropriate and on the approval of the Coordinating Agency, to establish a depository or designate an existing depository for representative samples or specimens of genetic resources taken out of Seychelles; and,
 - (g) any other functions the Minister may prescribe in regulations.
- (4) In the exercise of its functions under this Act, a lead Agency shall continue to execute its mandate as prescribed by law.

15. Where necessary and appropriate, the Competent Authority, Coordinating Agency, lead agencies and any other agencies of the Government of Seychelles shall collaborate with local, foreign and international organisations, whether governmental or non-governmental, in the effective implementation of this Act.

16. The objectives and provisions of this Act shall be carried into effect by means of regulations that may be prescribed, including –

- a) The Minister for the time being responsible for agriculture shall prescribe measures for access to, and utilisation of, plant genetic resources for food and agriculture under this Act; and,
- b) The Minister shall prescribe measures for access to, and utilisation of, genetic resources other than those provided for in paragraph (a) of this section under this Act.

PART IV – CONDITIONS OF ACCESS

17. Access to the genetic resources of Seychelles shall be conditional upon the granting of prior informed consent by the following –

- (1) The relevant authorities of Seychelles, as prescribed in regulations; and,
- (2) As may be appropriate, any holder of private rights that may be relevant to the grant of access.

Private rights in this section shall be understood so as to include the rights of the holders of the knowledge, innovations and practices of local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity, whether or not these rights may be formally recognised in law.

18. Access to the genetic resources of Seychelles shall be conditional upon measures for the fair and equitable sharing of the benefits of such access, as may be prescribed in regulations.

or

Access to the genetic resources of Seychelles shall be conditional upon measures for the fair and equitable sharing of the benefits of such access, as may be prescribed in regulations and including –

- (1) monetary benefits such as fees, royalties or milestone payments; or,
- (2) non-monetary benefits such as the provision of research results, training, equipment or information contributing to the conservation and sustainable use of the genetic resources of Seychelles.

Provided that such benefit sharing shall include due consideration of the public interest and of the interests of the holders of private or community rights including to the knowledge, innovations and practices of local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity.

19. Access to the genetic resources of Seychelles involving any species listed or otherwise officially recognised in law or practice as protected or threatened shall not be granted unless written approval for access is received from the lead agency responsible for the conservation and management of such species including, where relevant, the CITES Management Authority.

20. The Competent Authority, in consultation with the Coordinating Agency and lead agencies, shall have the discretion to refuse access to the genetic resources of Seychelles where it is reasonably believed that the applicant is from, or otherwise based or operating in, jurisdictions that do not provide adequate guarantees for the respect and enforcement of this Act.

21. Access to genetic resources other than plant genetic resources for food and agriculture shall be expressly limited in both time and the nature and scope of authorised activities.

22. As appropriate and necessary, the Minister may prescribe additional conditions for access to the genetic resources of Seychelles in regulations.

PART V – CONDITIONS OF UTILISATION

23. Rights to the utilisation of the genetic resources of Seychelles shall be conditional upon the granting of prior informed consent by the relevant authorities of Seychelles, as prescribed in regulations.

24. Any grantee of rights to the utilisation of genetic resources shall notify the Coordinating Agency of any intention to apply for, assert or otherwise claim any form of intellectual property rights relating to such utilisation.

25. Any grant of rights to the utilisation of the genetic resources of Seychelles shall be conditional upon measures for the fair and equitable sharing of the benefits of such access, as may be prescribed in regulations.

or

Any grant of rights to the utilisation of the genetic resources of Seychelles shall be conditional upon measures for the fair and equitable sharing of the benefits of such utilisation, as may be prescribed in regulations and including –

- (3) monetary benefits such as fees, royalties or milestone payments; or,
- (4) non-monetary benefits such as the provision of research results, training, equipment or information contributing to the conservation and sustainable use of the genetic resources of Seychelles.

Provided that such benefit sharing shall include due consideration of the public interest and of the interests of the holders of private or community rights including to the knowledge, innovations and practices of local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity.

26. Any grant of rights to the utilisation of the genetic resources of Seychelles shall be conditional upon the grantee declaring Seychelles as the provider of such genetic resources in any patent application or claim or other form of intellectual property rights application, claim or assertion. The Competent Authority may, upon notification by a grantee pursuant to section 24 above, waive the condition provided for in this section, provided that such waiver is strictly limited in scope and only applied on a case-by-case basis.

27. Rights to the utilisation of the genetic resources of Seychelles involving any species listed or otherwise officially recognised in law or practice as protected or threatened shall not be granted unless written approval for access is received from the lead agency responsible for the

conservation and management of such species including, where relevant, the CITES Management Authority.

28. The Competent Authority, in consultation with the Coordinating Agency and lead agencies, shall have the discretion to refuse rights to the utilisation of the genetic resources of Seychelles where it is reasonably believed that the applicant is from, or otherwise based or operating in, jurisdictions that do not provide adequate guarantees for the respect and enforcement of this Act.

29. Rights to the utilisation of genetic resources other than plant genetic resources for food and agriculture shall be expressly limited in both time and the nature and scope of authorised activities.

30. As appropriate and necessary, the Minister may prescribe additional conditions for the grant of rights to the utilisation of the genetic resources of Seychelles in regulations.

PART VI – MEASURES TO SUPPORT PRIOR INFORMED CONSENT AND MUTUALLY AGREED TERMS, INCLUDING BENEFIT SHARING, IN COUNTRIES OF ORIGIN OR COUNTRIES PROVIDING GENETIC RESOURCES

31. Any person or other entity based in or otherwise subject to the jurisdiction of Seychelles shall comply with the laws or other regulatory regimes of other jurisdictions in which they may access or seek authorisation for the utilisation of genetic resources.

32. Any person or other entity based in or otherwise subject to the jurisdiction of Seychelles shall comply with the terms and conditions upon which they have been granted access or authorisation to utilise genetic resources in any other jurisdiction, including any material transfer agreements or permits.

33. Any person or other entity based in or otherwise subject to the jurisdiction of Seychelles and accessing or utilising genetic resources originating in or provided by other jurisdictions shall notify the relevant authorities, including the ABS Competent Authority, of that source country.

34. Notwithstanding the provisions of section 33, above, it is recommended that persons or other entities based in or otherwise subject to the jurisdiction of Seychelles and accessing or utilising genetic resources originating in or provided by other jurisdictions notify the Competent Authority of any permits issued or material transfer agreements executed and provide details of the same.

35. The Minister may prescribe in regulations any further measures to support prior informed consent and mutually agreed terms, including benefit sharing, in countries of origin or countries providing genetic resources as he deems appropriate.

36. The provisions of this Part shall only apply in respect of the laws or other terms and conditions of access or utilisation of foreign jurisdictions providing equivalent or reciprocal protections to those contained in this Part.

PART VII – MONITORING AND ENFORCEMENT

37. The Coordinating Agency shall bear primary responsibility for monitoring compliance with the administrative requirements for access to, and utilisation of, genetic resources established under this Act, including –

(1) Informing prospective applicants of the administrative and documentary requirements of this Act;

- (2) Accepting provisional applications or applications and informing applicants and lead agencies of the status of such provisional applications or applications under this Act;
 - (3) Informing the Competent Authority and relevant lead agencies of any actual or suspected breaches of the administrative requirements of this Act; and,
 - (4) Maintaining all relevant documents, records or other relevant information that may further the effective implementation of this section.
38. Lead agencies shall bear primary responsibility for monitoring compliance with the terms and conditions of access to genetic resources under this Act, including –
- (1) Ensuring that access does not threaten, or otherwise place at risk, the genetic resources being accessed or any element of the ecosystem or ecosystems within which they are found;
 - (2) Ensuring that access is in accordance with the terms and conditions of this Act or any agreement reached, or permit issued, pursuant to it;
 - (3) Informing the Competent Authority and other relevant lead agencies of any actual or suspected breaches of the terms and conditions of access to genetic resources under this Act; and,
 - (4) Maintaining all relevant documents, records or other relevant information that may further the effective implementation of this section.
39. The Competent Authority shall bear primary responsibility for monitoring compliance with the terms and conditions of rights to the utilisation of genetic resources under this Act, including –
- (1) Ensuring that utilisation is in accordance with the terms and conditions of this Act or any agreement reached, or permit issued, pursuant to this Act;
 - (2) Informing the Coordinating Agency and relevant lead agencies of any actual or suspected breaches of the terms and conditions of rights to the utilisation of genetic resources under this Act; and,
 - (3) Maintaining all relevant documents, records or other relevant information that may further the effective implementation of this section.
40. The Competent Authority, in collaboration with relevant lead agencies, shall bear primary responsibility for ensuring the effective enforcement of this Act.
41. The Competent Authority, Coordinating Agency and lead agencies shall collaborate with other established agencies and forces of the Government of Seychelles and, as necessary and appropriate, with other national, foreign, regional or international organisations in the effective implementation of this Act.

PART VIII – OFFENCES AND PENALTIES

PART IX - MISCELLANEOUS

42. The provisions of this Act shall not prejudice the existence of rights and obligations established in law.
43. Any person granted access to, or rights for the utilisation of, genetic resources under this Act shall not require a research permit from the Seychelles Bureau of Standards.

XI. SYRIA⁶

1. A draft bill on plant genetic resources has been prepared in line with this Convention and is being discussed in the Parliament.

⁶ *Original submission was received in Arabic. This translation has been done by the Secretariat.*

2. The Committee of Agriculture Research in the Ministry of Agriculture and Agrarian Reform, has a long, medium and short term implementation plan on plant genetic resources (Collection, conservation, maintenance, evaluation and use) and includes activities *in situ* and *ex situ*. A special department hosts a plant genetic resources bank (deep, medium, frozen) with more than 11 000 accessions in addition to those kept in natural locations and botanic garden that have more than 1 000 varieties of different of fruit trees.
3. The Ministry of Agriculture and Agrarian Reform has rules and instructions for the conservation and protection of plant genetic plant resources and to promote and enforce the conservation and use of local varieties.
4. Syria has a number of natural parks to preserve plant genetic resources, which are account for more than one million hectares.
5. The Ministry of Agriculture and Agrarian Reform has a high academic committee in charge of rules and regulations on plant breeding and seed production; expanding the genetic diversity for the benefit of farmers.
6. The Committee of Agriculture Research in the Ministry of Agriculture and Agrarian Reform has a wide range of programs in plant breeding to be carry out in cooperation with farmers with the objective of breeding new varieties adapted to the local conditions of the Syrian environment. Special attention is being given to marginal areas. These programmes have succeeded in developing new varieties of cereals, cotton, maize and legumes. Some of these varieties have been developed using local indigenous varieties.

XII. SWEDEN

An in-depth analysis is currently in progress in Sweden, to examine whether the International Treaty on Plant Genetic Resources for Food and Agriculture or the Standard Material Transfer Agreement necessitate any changes in the present legislation.

XIII. TANZANIA

Progress has been made in the process to domesticate the International Treaty on Plant Genetic Resources for Food and Agriculture. The Task Force to formulate the national legislation on plant genetic resources for food and agriculture has been established and operational. The report of the Task Force will be reviewed at the national stakeholders workshop to be organized in the nearest future.

XIV. URUGUAY

Varias medidas y políticas nacionales se han instrumentado o se encuentran en vías de implementación:

Algunas Leyes Generales enmarcan la actuación a diferentes niveles, como:

- la Ley General de Medio Ambiente, que declara de interés general la protección de la diversidad biológica contra cualquier tipo de destrucción o contaminación;
- la Ley de Impacto Ambiental, que implica, entre otros aspectos la evaluación de la sostenibilidad de los proyectos productivos, así como la identificación de medidas mitigatorias;
- la Ley de Áreas Protegidas y su reglamentación, que está trabajando sobre 8 áreas, y que prevé la inclusión de 10 nuevas áreas en los próximos 5 años;
- el Proyecto de Ley de Creación del Sistema Nacional sobre Recursos Genéticos y Ley de Acceso a los Recursos Genéticos y Conocimientos Tradicionales asociados;

- el Proyecto de Ley de Ordenamiento Territorial, orientado a evitar conflictos de usos con miras al uso sostenible del territorio;
- Desarrollo de un Marco Normativo Institucional en el área de Bioseguridad.

También se deben destacar varios Proyectos y medidas a tomar por el Ejecutivo e instituciones de investigación y enseñanza, en el que el componente Conservación y Utilización sostenible han sido incluidos:

- Programa de Producción Responsable (Ministerio de Ganadería, Agricultura y Pesca (MGAP) - The Global Environment Facility (GEF)) en el Sector Agropecuario, en el que se han presentado unos 800 proyectos, la mayoría de ellos de parte de pequeños agricultores familiares;
- Los programas de mejoramiento nacionales en las especies de que se dispone;
- Rescate y revalorización de semillas locales y soberanía alimentaria (Facultad de Agronomía – Asociación de Productores Orgánicos del Uruguay (APODU) – Red de Ecología Social (REDES);
- Programa de rescate y recuperación de recursos genéticos locales. (Intendencia Municipal de Treinta y Tres);
- Colecta, caracterización morfológica y evaluación agronómica de variedades locales de cebolla (Facultad de Agronomía, Instituto Nacional de Investigación Agropecuaria (INIA), Programa Cooperativo para el Desarrollo Tecnológico Agroalimentario y Agroindustrial del Cono Sur (PROCISUR);
- Identificación y colecta de variedades locales de zanahoria (Facultad de Agronomía);
- Ampliación de la base genética de las leguminosas forrajeras naturalizadas para sistemas pastoriles sustentables (INIA);
- Variedades locales de especies forrajeras introducidas (INIA);
- Primer estudio sistemático de los recursos genéticos de *Acca sellowiana* (Guayabo del país). (Facultad de Agronomía);
- Mejoramiento genético de frutales nativos. (Facultad de Agronomía);
- Alternativas para la conservación y utilización sustentable de los palmares de *Butia capitata*. (Facultad de Agronomía);
- Tecnologías apropiadas para la agricultura y la alimentación (Centro Uruguayo de Tecnologías Apropriadas (CEUTA)).

También están en estudio algunas iniciativas como el establecimiento de un porcentaje de área de pradera natural a ser conservada ante el avance de la forestación y la frontera agrícola en general.

En el marco de proyectos sectoriales, se están desarrollando Estrategias de Comunicación, Educación y Conciencia Pública en relación al tema áreas protegidas, bioseguridad, producción sostenible, con un fuerte énfasis en la promoción de la participación de los actores involucrados en dicho proceso.

Otras medidas adoptadas para armonizar uso y conservación sostenible tiene que ver con la promoción de una conciencia más conservacionista a través de la educación ambiental, mejorar la base de información sobre biodiversidad que puedan ser útiles para el desarrollo de indicadores de sustentabilidad e investigación para determinar prácticas alternativas de uso sostenible atractivas para los productores. También el MGAP desarrolla varios programas como Uruguay Rural y FIDA, orientados a apoyar la conservación sostenible de la diversidad biológica en predios agropecuarios. También buscan favorecer estos objetivos algunos eventos como exposiciones y ferias del tipo “Hecho Acá”.